



# THE CITY OF WHITTIER

Gateway to Western Prince William Sound

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## WHITTIER CITY COUNCIL

### SPECIAL MEETING

THURSDAY, JULY 02, 2013

7:00 PM

COUNCIL CHAMBERS

P-12 BUILDING

## MINUTES

### 1. CALL TO ORDER

Mayor Lunceford called the meeting to order at 7:00 pm.

### 2. OPENING CEREMONY

Mayor Lunceford led the Pledge of Allegiance.

### 3. ROLL CALL

**A. Council Members Present:** Larry Bussman, Pete Heddell, Lester Lunceford, Dave Pinquoch, Mary Brenneman, Dan Blair and Becky Cotner

Mayor Lunceford asked that the record reflect a full quorum for tonight's special meeting.

**B. Administration Present:** Brenda Krol, City Clerk and Tom Bolen City Manager

Others present: Dutch Lucore, Marilynn Heddell, Barbara Ensminger, Charlie Eldridge, Cole Haddock, Scott Korbe, Sue Miller, Joseph Levesque, Dave Schofield, Eula Schofield, Dave Goldstein, Peter Denmark, Fred Whittingham,

### 4. APPROVAL OF SPECIAL MEETING AGENDA

**MOTION:** Becky Cotner made a motion to approve the special meeting agenda as written.

**SECONDED:** Mary Brenneman seconded the motion.

**VOTE:** Motion passed unanimously.

### 5. BUSINESS ITEMS THE SUBJECT OF THE SPECIAL MEETING

#### A. Ordinances – Public Hearings (second reading)

**1. #09-2013 – An ordinance approving amendment #2 for FY 2013 budget of revenue and appropriations as necessary for the budget**

**MOTION:** Mary Brenneman made a motion to open the public hearing on ordinance #09-2013.

**SECONDED:** Pete Heddell seconded the motion.

**VOTE:** Motion passed unanimously.

Hearing no public comments Mayor Lunceford entertained a motion to close the public hearing on ordinance #09-2013.

**MOTION:** Mary Brenneman made a motion to close the public hearing on ordinance #09-2013.

**SECONDED:** Pete Heddell seconded the motion.

**VOTE:** Motion passed unanimously.

**MOTION:** Mary Brenneman made a motion to adopt ordinance #09-2013.

**SECONDED:** Larry Bussman seconded the motion.

**VOTE:** Motion passed unanimously.

**2. #10-2013 – An ordinance amending WMC Chapter 3.08 to clarify the exemption for long term residential leases from city sales tax**

**MOTION:** Mary Brenneman made a motion to open the public hearing on ordinance #10-2013.

**SECONDED:** Dan Blair seconded the motion.

**VOTE:** Motion passed unanimously.

Hearing no public comments Mayor Lunceford entertained a motion to close the public hearing on ordinance #10-2013.

**MOTION:** Mary Brenneman made a motion to close the public hearing on ordinance #10-2013.

**SECONDED:** Becky Cotner seconded the motion.

**VOTE:** Motion passed unanimously.

**MOTION:** Mary Brenneman made a motion to adopt ordinance #10-2013.

**SECONDED:** Becky Cotner seconded the motion.

**VOTE:** Motion passed unanimously.

**B. Resolutions**

**1. #16-2013 – A resolution authorizing the City Manager to enter into a professional services agreement (PSA) with Glenn Gray & Associates, LLC. Facilitation services for the Shakespeare Creek Restoration Project and for related purposes**

**MOTION:** Mary Brenneman made a motion to adopt resolution #16-2013

**SECONDED:** Dan Blair seconded the motion.

**VOTE:** Motion passed unanimously.

**C. Unfinished Business – Dave Pinquoch – City of Whittier Ethics Board Decision**

Tom Bolen stated that at the last council meeting there was a motion made and approved by Councilman Dave Pinquoch to gain a second opinion on the issues of disqualification and voting and subsequently Mr. Joe Levesque and Levesque Law Group was retained to offer a second opinion.

Mr. Joseph Levesque from Levesque Law Group gave a brief public summary of his findings.

See original council packet for hard copy.

Joe Levesque stated that other municipalities so that they don't find themselves in this kind of a situation, is they have any ordinance that will set up an independent group so there would be no city council members involved and certainly no city employees.

Joe Levesque stated that the Mat-Su Borough has an independent board and once they hear an ethics complaint or violation they don't make a recommendation, they are not an advisory board they state whatever the penalty is and that is the last final action by the city. The city council does not have to deal with it; they do not have to get entangled in this kind of a matter.

After Joe Levesque spoke about disqualification and voting Mayor Lunceford asked Councilor Pinquoch if he had any suggestions or recommendation regarding the Ethics Board.

Councilor Pinquoch replied "I guess we move forward with the attorney's recommendations, are we going to continue from where we left off?"

Councilor Pinquoch told Lester Lunceford "which was me making a motion to accept the Ethics Board's recommendations for you and I had been recused and that is where we left off."

Dave Pinquoch said "I guess my next step would be to move to recuse Lester Lunceford from voting on his own ethics violation."

Lester Lunceford said to Dave Pinquoch "I don't believe we had finished addressing you're your conflict yet."

Mary Brenneman said to Dave Pinquoch "I thought that Lester had already been recused and you had already been recused and you had made a motion to have me recused."

Dave Pinquoch said "that sounds right; if we can accept that that is accurate I'm good with that."

Peter Denmark stated that he did not entirely understand why Councilor Pinquoch is being precluded from voting simply by chairing the Ethics Board; the Ethics Board's findings were unanimous.

Peter Denmark said "previous Ethic Boards came with unanimous findings and the Councilor leading the board, Councilor Lunceford himself voted on a council action at the same time."

Peter Denmark said "so I really don't understand how the council representative of the ethics board, why his bias or lack there of is relevant."

Lester Lunceford replied "well my argument would be that Councilor Pinquoch has made it public that he was bias, he stated that on record."

Peter Denmark said "but simply by the nature of leading the ethics board and coming to a unanimous decision that bias could be argued but it is unavoidable by the nature of the finding."

Peter Denmark said "It has been done before."

Lester Lunceford said "well do we continue to let wrong be right?"

Peter Denmark said "well I don't know Mr. Mayor; I mean you were the one that led those boards, we seem to be changing the rule book now that the ethics violations are against you and it smacks up dirty pool."

Lester Lunceford said "well it may smack up dirty pool to a handful of people like yourself Peter but I'm going to tell you something, everyone in this room is afforded due process and I don't believe due process was served here and whatever happens tonight I can guarantee you that it can continue on after this and do we want to continue spending the tax payers money to keep this absurd circus going on as many people in this community have said."

Dave Goldstein said "point of order but that's an opinion."

Lester Lunceford replied "and that's his opinion too that he just quoted about bias in past ethics boards."

Peter Denmark said "no it's fact you chaired he board and then voted on the action."

Lester Lunceford said "did I have a conflict?"

Peter Denmark said "you were on the board and voted for the action that you voted on, yes."

Councilor Becky Cotner asked for point of order.

Lester Lunceford said "so I guess we are going to vote on whether Mary Brenneman has a conflict now."

**MOTION:** Dave Pinquoch made a motion to recuse Mary Brenneman because she has a conflict of interest in this because the ethics board determined that she was complicit with Mayor Lunceford's ethical violation.

**SECONDED:** Becky Cotner seconded the motion.

**VOTE:** Dave Pinquoch: Yes, Becky Cotner: No, Dan Blair: Yes, Pete Heddell: Yes, Larry Bussman: No, Lester Lunceford: No.

### **Motion failed 3-3.**

Tom Bolen said "at the risk of speaking out of term, I think that we can all see where this procedure is heading and it strikes me that we have four members who have been accused of violations. One has been determined to have not violated any ethics rules by the ethics board and the Council has accepted that decision for Councilor Bussman."

Tom Bolen said "three councilors remain to be addressed, this process can go on for a very long time and I don't believe it will satisfy most people and in light of the fact that there is a recall election scheduled for Mayor Lunceford on the 23<sup>rd</sup> of July, also in light of the fact that both councilor Becky Cotner and Mary Brenneman are up for reelection this fall I believe that there is at least a delayed opportunity for all of the citizens of Whittier to speak their mind on this issue and take it out of the realm of this circus that we are all participating in."

Tom Bolen said "I would encourage and invite a member of the council to make a motion at this time to set aside all of the remaining allegations and let the public have their way on this that truly puts the power in the people's hands, which is what democracy is about."

**MOTION:** Pete Heddell made a motion stipulating to the fact that we are equivalent to a hung jury and in support of Mr. Bolen's presentation that we conclude this matter and let the public decide what the actual outcome should be.

**SECONDED:** Dan Blair seconded the motion.

**VOTE:** Motion passed unanimously.

## **6. CITIZEN'S DISCUSSION (agenda items only)**

Pete Heddell asked Joe Levesque if there are any guidelines at the State or Federal level to resolve such an issue should it come again.

Mr. Levesque replied "Let me first start by saying that I didn't really research either State or Federal I was asked to look at just the general ordinances that the City had to determine this but I really don't think that there is."

Joe Levesque said "I think when you look at Brooks' research on the rule of necessity you'll see a lot of court cases and its a common law doctrine but I think the power is in your own ordinances and the way you need to resolve this is to look at your own ordinance, the whole ethics board concept that the city has is flawed when you have a small Council and a small community and there is this many complaints."

Joe Levesque told Councilor Heddell "I think what you need to do is consider a hearing officer and you can even keep it the way you have it but have as a second option the ability to give it to a hearing officer so if you reach this problem it could go to the hearing officer instead of having to postpone this or table it indefinitely."

Mayor Lunceford asked if there was any citizen's discussion.

Hearing none Tom Bolen requested that a member of the council make a motion to retire to executive session to discuss a matter regarding a lease dispute issue, the discussion of which in public could affect the city's finances.

Councilor Pinquoch asked "who is the lease with?" "The public should at least be aware."

Tom Bolen replied "Passage Canal Development."

## **7. EXECUTIVE SESSION**

**MOTION:** Dan Blair made a motion to go into executive session at 7:51pm to discuss Passage Canal Development lease dispute issue that could have a financial impact on the City.

**SECONDED:** Larry Bussman seconded the motion.

**VOTE:** Motion passed unanimously.

**MOTION:** Pete Heddell made a motion to go back into regular session at 8:15pm

**SECONDED:** Mary Brenneman seconded the motion.

**VOTE:** Motion passed unanimously.

Mayor Lunceford asked that the record reflect that the Council was unanimous in their decision to direct the City Manager to move forward with what the Council discussed in executive session.

## **8. ADJOURNMENT**

**MOTION:** Mary Brenneman moved to adjourn the meeting at 8:16 pm.

**SECONDED:** Becky Cotner seconded the motion.

**VOTE:** Motion passed unanimously.

**Attest:**



Brenda Krol  
City Clerk



Dan Blair  
Vice Mayor